

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

3 JEROME CORSI, LARRY KLAYMAN,) AU:20-CV-00298-LY
4 Plaintiffs,)
5 v.) AUSTIN, TEXAS
6 INFOWARS, LLC, FREE SPEECH SYSTEMS, LLC,)
7 ALEX E. JONES, DAVID JONES, OWEN SHROYER,)
Defendants.) MAY 21, 2020

TRANSCRIPT OF TELEPHONE CONFERENCE
BEFORE THE HONORABLE LEE YEAKEL

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Proceedings recorded by computerized stenography, transcript
produced by computer.

09:31:35 1 (In chambers)

09:31:35 2 THE COURT: Good morning. Let me start with the
09:31:46 3 plaintiff, and announce who is on the line representing the
09:31:49 4 plaintiff, please.

09:31:53 5 MR. KLAYMAN: Larry Klayman for Dr. Jerome Corsi and
09:31:57 6 for myself, *pro se*, Your Honor.

09:31:59 7 THE COURT: All right. And who is on the line for
09:32:01 8 the defendants?

09:32:08 9 (Unintelligible response)

09:32:08 10 THE COURT: You're going to have to start over and do
09:32:09 11 it one at a time.

09:32:10 12 MR. REEVES: My apologies, Your Honor.

09:32:14 13 This is Brad Reeves, representing every defendant
09:32:17 14 except for David Jones, as local counsel.

09:32:23 15 MR. RANDAZZA: And, Your Honor, this is
09:32:22 16 Marc Randazza, Mr. Reeves' colleague.

09:32:28 17 MR. WACHEN: And, Your Honor, good morning. This the
09:32:30 18 David Wachen. I am counsel for David Jones, defendant, along
09:32:34 19 with Greg Sapire, who is local counsel.

09:32:39 20 MR. WOLMAN: And, Your Honor, this is Jay Wolman on
09:32:41 21 the line. I also represent the defendants, except for
09:32:43 22 David Jones.

09:32:47 23 THE COURT: All right. Well, thank you-all for being
09:32:49 24 available this morning. At the request of at least one of the
09:32:55 25 parties, I set this case for a telephonic status conference.

09:33:00 1 As you all know, the case didn't originate here. I received it
09:33:04 2 as a gift from the East that I will think about for a long
09:33:10 3 time.

09:33:11 4 A couple of things I want to mention, and then we'll
09:33:15 5 get into see what the status of this is.

09:33:18 6 Mr. Klayman, I know you've had discussions with our
09:33:24 7 court about *pro hac vice*. Of course, you can continue to
09:33:29 8 represent yourself *pro hac*, but you can't represent anyone
09:33:33 9 else, for instance, Mr. Corsi, unless you're either admitted to
09:33:38 10 this court as a member of the bar of this court or admitted
09:33:42 11 *pro hac vice*. So this will be the last time you get to appear
09:33:53 12 for Mr. Corsi until the paperwork gets in order or he has other
09:33:57 13 counsel. Do you understand that?

09:34:00 14 MR. KLAYMAN: I do understand, Your Honor. We'll be
09:34:02 15 submitting the application today. I apologize. Everything
09:34:04 16 kind of got lost in communication during the whole coronavirus
09:34:09 17 crisis. My office has been scattered all over the place.

09:34:16 18 THE COURT: All right. So I can't for the life of me
09:34:17 19 recall which one of you requested this conference, but whoever
09:34:21 20 did, I will start with you, and then I will hear from everyone
09:34:25 21 else who is on the line who wants to speak. So tell me what
09:34:30 22 the status of this case is, where we are, and what needs to be
09:34:34 23 done with it.

09:34:37 24 MR. KLAYMAN: Your Honor, this is Mr. Klayman. I
09:34:39 25 mean, we're really at square one because the gift that you got

09:34:44 1 from the east coast by Judge Timothy Kelly, the dismissal --
09:34:49 2 rather, the transfer was only based on *forum non conveniens*.
09:34:52 3 He didn't rule on the merits. In fact, I think your humor is
09:34:58 4 well-taken there because he could have kept the case. There
09:35:00 5 was jurisdiction and venue in D.C. But I think because it was
09:35:05 6 InfoWars and that kind of thing, he didn't want the hot potato
09:35:09 7 in the courtroom. So he sent it to you-all out there.

09:35:12 8 But the case is on square one, and, you know, it's
09:35:19 9 teed up in many ways to move forward and we're prepared to move
09:35:23 10 forward.

09:35:23 11 THE COURT: Well, when you say square one, square one
09:35:25 12 what? What's pending?

09:35:30 13 MR. KLAYMAN: Well, there's motions to dismiss
09:35:32 14 pending that have never really been decided on the merits. The
09:35:35 15 judge simply transferred the case before he got to it, having
09:35:38 16 sat on the case for nearly a year. So that's where we are
09:35:41 17 right now.

09:35:43 18 THE COURT: Well, one of the things I'm sure the
09:35:45 19 people you've talked to locally will tell you, hot potatoes
09:35:52 20 don't bother us. Almost all our cases are hot potatoes here.

09:35:56 21 MR. KLAYMAN: Okay.

09:35:56 22 THE COURT: I would welcome some cold, uncooked
09:36:01 23 potatoes sometime, but that apparently is not what our docket
09:36:04 24 is to be down here.

09:36:06 25 So we've got some pending motions to dismiss that

09:36:09 1 came down with the case -- or a pending motion to dismiss.

09:36:13 2 What exactly do we have, because I haven't gone through the
09:36:17 3 docket in detail on this.

09:36:22 4 MR. WACHEN: Your Honor this is David Wachen. I
09:36:23 5 requested the status conference on behalf of David Jones,
09:36:26 6 defendant.

09:36:26 7 And what Mr. Klayman said is actually not accurate.

09:36:29 8 The judge in D.C. found that there was no venue. And rather
09:36:36 9 than dismiss the case outright, because of possible concern
09:36:38 10 about statute of limitations for the plaintiffs, he transferred
09:36:41 11 it for their benefit, really, to this court, where there is
09:36:45 12 venue and where there is jurisdiction over the defendants.

09:36:49 13 The motions that have been filed in D.C. by all of
09:36:53 14 the defendants, including mine, were for lack of venue, lack of
09:36:58 15 personal jurisdiction, which the judge there didn't need to get
09:37:02 16 to, and failure to state a claim, 12(b) (6).

09:37:05 17 The 12(b) (6) motion has been fully briefed,
09:37:09 18 Your Honor. It's been fully briefed probably since almost a
09:37:12 19 year ago, maybe a year ago, and it's ripe for disposition.

09:37:18 20 And this is a defamation case, basically, is what it
09:37:23 21 boils down to. But the one thing I wanted to mention on behalf
09:37:26 22 of my client, Mr. Jones -- David Jones, is that regardless of
09:37:33 23 what we think about the case as to the other defendants, my
09:37:35 24 client is -- does not belong in the case at all. The D.C.
09:37:39 25 judge made it clear in his order that the plaintiffs have made

09:37:43 1 no allegations about David Jones' conduct at all. That's a
09:37:47 2 direct quote from page 3 of the decision. There are no
09:37:53 3 allegations that he did anything wrong. There are no
09:37:55 4 allegations that he did anything.

09:37:56 5 THE COURT: All right. Wait a minute. Stop right
09:37:58 6 there. I don't want to hear argument on any of the motions
09:38:00 7 right there.

09:38:01 8 MR. WACHEN: Your Honor, I understand that. But he's
09:38:03 9 in a unique circumstances, because I really think he -- he is
09:38:06 10 in the case maybe because he's the father of Alex Jones, who is
09:38:10 11 an adult and is competent to defend himself. And I think --
09:38:14 12 and we asked in our --

09:38:16 13 THE COURT: No. Mr. Wachen, that's still argument.
09:38:21 14 I don't want to hear about the substance of the motions right
09:38:23 15 now. This is a status conference. And I am sure you're right
09:38:27 16 about the uniqueness of your client, but I can't tell you how
09:38:31 17 many times I hear about the uniqueness of clients and how
09:38:36 18 they're differently situated than anybody else. That's an
09:38:41 19 issue for another day.

09:38:42 20 What I want to know today is what's pending right
09:38:45 21 now. And what I've heard you say is it's now in a court that
09:38:55 22 has venue, and there are at least one -- one by your client and
09:39:07 23 perhaps others -- fully briefed motion to dismiss under
09:39:09 24 Rule 12(b) (6) that are ripe for me to rule on.

09:39:15 25 Are there any other motions that I need to pay

09:39:18 1 attention to at this time?

09:39:22 2 MR. WACHEN: The only thing I would mention,
09:39:23 3 Your Honor -- and I apologize. I'm not trying to make an
09:39:25 4 argument. But in our status report we did ask the court to
09:39:30 5 consider an order to show cause that David Jones doesn't belong
09:39:38 6 in the case.

09:39:39 7 THE COURT: What good would that do above and beyond
09:39:42 8 your 12(b)(6) motion?

09:39:50 9 MR. WACHEN: Well, if Your Honor is going to take up
09:39:51 10 the 12(b)(6) motion, I guess it would be addressed there. I'm
09:39:54 11 just looking out for my client. He really does not want to be
09:39:58 12 in this case and doesn't belong in this case.

09:40:00 13 THE COURT: I understand. I have never encountered a
09:40:03 14 defendant that wanted to be in a lawsuit or be sued. Never
09:40:06 15 happened in private practice. None of my clients were ever
09:40:09 16 properly sued when I was in private practice. Everyone I sued
09:40:14 17 when I represented plaintiffs deserved to be in the lawsuit.

09:40:22 18 So if it will solve your problem with your clients,
09:40:25 19 then I'm inclined to take up that on the pending motions and
09:40:32 20 not have an additional show cause. One of the things that has
09:40:36 21 happened to you when you got moved down here from Washington is
09:40:41 22 that you got put right in the middle of one of the largest
09:40:45 23 United States District Court dockets in the country. When I
09:40:50 24 say all hot potatoes, I wasn't joking. We have a very complex
09:40:55 25 civil docket as well as a large civil docket here.

09:41:00 1 We are perhaps the most under-judged division in the
09:41:05 2 country. We have only two United States district judges in the
09:41:09 3 Austin Division. The last time we had a new position added was
09:41:15 4 1991. And if you look at the population growth in the last
09:41:21 5 29 years and you consider the legal activity in an area is
09:41:26 6 generally a direct relation to the number of people you put in
09:41:30 7 an area, the population of the Austin Division has more than
09:41:34 8 doubled and you have the same number of judges, the same number
09:41:38 9 of law clerks, et cetera, looking at what is a docket roughly
09:41:42 10 twice the size of what it was in '91. So I do not go out of my
09:41:48 11 way to encourage people to file additional motions.

09:41:53 12 So are there any other motions other than any
09:41:57 13 12(b)(6) motions that are lying around?

09:42:03 14 MR. WACHEN: No, Your Honor.

09:42:04 15 THE COURT: All right. What else did anybody want to
09:42:07 16 bring up at this status conference? What else do -- what do I
09:42:12 17 need to know?

09:42:17 18 MR. KLAYMAN: This is Mr. Klayman.

09:42:19 19 In terms of this status conference, there's nothing
09:42:21 20 further.

09:42:21 21 THE COURT: Well, let me tell you what I need you to
09:42:24 22 do. You all need to review our local rules, and you need to
09:42:31 23 prepare a scheduling order for me that complies with our local
09:42:36 24 rules. And you need to agree on it.

09:42:39 25 I will tell you all up front, I don't care how

09:42:43 1 controversial one or more of the defendants may be. I don't
09:42:49 2 care how the lawyers feel about each other. I really don't
09:42:54 3 care how your clients feel about each other. Your job as
09:42:58 4 lawyers is to get this case resolved. I expect you to demean
09:43:02 5 yourselves at all times like the professionals you are, and I
09:43:07 6 expect you to make reasonable accommodation to one another.

09:43:11 7 You will see when you review my form of scheduling
09:43:16 8 order that is on the court website -- and go to my form,
09:43:22 9 because Judge Pitman has a different form, Senior Judge Sparks
09:43:27 10 has a different form, and Senior Judge Nowlin may have a
09:43:31 11 different form. So don't make a mistake; look at my form --
09:43:34 12 you will see you are to agree on all of the dates leading up to
09:43:38 13 a final pretrial conference and a trial month. You are to
09:43:43 14 leave those blank, and I will schedule an initial pretrial
09:43:48 15 conference which we will probably do by telephone and go over
09:43:56 16 things with you.

09:43:58 17 I expect you to agree on all of the dates up to the
09:44:04 18 final pretrial conference and the trial month, which I will
09:44:10 19 set. I will not take kindly if you cannot agree on it. I do
09:44:14 20 not like little ticky-tacky disputes among lawyers. I
09:44:17 21 particularly don't like it if I get two or three different
09:44:22 22 forms of scheduling order because you're arguing over the
09:44:25 23 length of time that may be needed for discovery or this or
09:44:28 24 that.

09:44:29 25 In the life of a lawsuit, a month here or three

09:44:34 1 months here doesn't mean anything. I realize this case may
09:44:38 2 have sat around in the previous court for a while. That's not
09:44:43 3 your fault; that's not my fault. I got it for new when it got
09:44:49 4 filed this year, and that's what I'm picking up with.

09:44:54 5 You're going to have to figure how much time you want
09:45:00 6 because once I get it set, once I fill in after a subsequent
09:45:06 7 conference your trial month and final pretrial conference date
09:45:16 8 and time, you're not likely to get a continuance or a
09:45:20 9 postponement.

09:45:21 10 So sit down, presume for the moment that the motion
09:45:28 11 to dismiss is denied, and schedule your case accordingly. And
09:45:33 12 then if the motions to dismiss are granted, then it just got
09:45:36 13 easier for everybody. So put those dates firmly in your mind
09:45:45 14 because, as I said, once I have scheduled you for final
09:45:50 15 pretrial conference and trial, I am not likely to change those
09:45:55 16 dates.

09:45:55 17 You'll hear about this again. I've told you about
09:45:59 18 the large dockets we have. It creates far too big a ripple
09:46:03 19 effect through my docket if I start trying to reset things, so
09:46:08 20 I simply don't do it.

09:46:10 21 Each of you needs to understand you only have one
09:46:12 22 role in this case, and that's to resolve it. And you can do in
09:46:17 23 one of three ways -- and you will hear this again -- you could
09:46:21 24 settle it or I could grant a well-taken dispositive motion for
09:46:26 25 one or more defendants, be it a motion to dismiss or a motion

09:46:32 1 for summary judgment or any other nature of dispositive motion,
09:46:37 2 or you can try the case. And I don't care which of the three
09:46:40 3 alternatives it is.

09:46:42 4 I like to try lawsuits. If I had my way and could
09:46:47 5 pass one law, I would do away with motion practice altogether,
09:46:51 6 and you would either settle your case or try your case, the way
09:46:55 7 it was in the olden days. And it was a much better system
09:47:00 8 before we developed this cottage industry about discovery and
09:47:04 9 motions practice.

09:47:05 10 So I'm not going to get you back here before your
09:47:07 11 trial and knock you around about why you haven't settled.
09:47:12 12 You're not going to be pushed as you go along to get your case
09:47:16 13 settled. If you get it settled, that will be fine. But that
09:47:20 14 is not anything that particularly bothers me.

09:47:23 15 I also don't care about controversial cases or
09:47:28 16 parties, and I don't care how long it takes to try a case.
09:47:31 17 Lengthy cases do not bother me. However, I will tell you now
09:47:36 18 that you will get put on a clock. At the appropriate point in
09:47:43 19 this case we will discuss how much time you're going to get to
09:47:46 20 try in your case, so you need to factor into what you're doing
09:47:49 21 that you're not going to get unlimited time to try your case.

09:47:52 22 So how long do you think you need to get in a
09:47:56 23 scheduling order for me?

09:48:02 24 MR. KLAYMAN: Your Honor, I think we can do it in
09:48:04 25 ten days.

09:48:04 1 THE COURT: Is everybody in agreement on that?

09:48:09 2 MR. REEVES: Agreed.

09:48:10 3 MR. WACHEN: Yes, Your Honor.

09:48:11 4 THE COURT: All right. I believe ten days puts you

09:48:13 5 on a Sunday, so I'll give you eleven. I'll give you until

09:48:16 6 June 1st to get a proposed scheduling order in.

09:48:20 7 In the interim, we will begin review and

09:48:27 8 consideration of the 12(b) (6) matter and see where we go from

09:48:33 9 there and try to get it ruled on as quickly as possible,

09:48:36 10 knowing that although I consider it ripe, you may not get a

09:48:44 11 ruling tomorrow, you may not get a ruling in ten days, because

09:48:47 12 of everything else we have going on here at this point.

09:48:50 13 So let me say a little bit about the situation we're

09:48:53 14 in with the pandemic, just to try to head off some questions.

09:49:01 15 I think all of the 677 active United States district

09:49:08 16 judges in this country, when all positions are filled, and the

09:49:11 17 senior judges who are doing things are all probably handling

09:49:16 18 the situation differently. Right now -- and this is not going

09:49:23 19 to affect you in the near run -- we're not summoning any jurors

09:49:28 20 through June, not having any jury trials through June. I don't

09:49:31 21 know if that will be extended into July or not. There are a

09:49:36 22 lot of moving parts here.

09:49:39 23 But what you need to know that does affect your case

09:49:42 24 is that everything doesn't stop because of the pandemic. I

09:49:48 25 still want a scheduling order, I'm still going to schedule this

09:49:52 1 case, and we're still going to move forward with it. I'm not
09:49:55 2 delaying things because it's harder to take depositions because
09:50:03 3 it's harder to contact people.

09:50:04 4 Everybody is in a world they haven't been operating
09:50:06 5 in before, including the lawyers, so you need to figure out how
09:50:12 6 to get your case ready for trial. I'm not going to figure it
09:50:15 7 out for you. If that means that you don't take as many
09:50:18 8 depositions as you're used to taking, then you don't take them.
09:50:20 9 Maybe you have to take them by phone or by video -- Zoom,
09:50:26 10 something like that -- which is not the best way to do it, but
09:50:30 11 it's a way to do it.

09:50:32 12 Everybody needs to make adjustments to the current
09:50:35 13 situation we're in. It is not business as usual. It's not the
09:50:40 14 way you're used to doing things. And I'm not going to sit down
09:50:44 15 and wade through every one of my cases and figure out how to
09:50:48 16 get it ready for trial. That is up to you as lawyers, and I
09:50:53 17 expect you to cooperate on it and I expect you to get it done.

09:50:59 18 So get your scheduling order done. Be in constant
09:51:03 19 contact with one another on getting your discovery done. I'm
09:51:09 20 not going to have sympathy if I hear in month or two, "Well, we
09:51:13 21 couldn't take so and so's deposition because they weren't going
09:51:16 22 to be available at such and such a time." You need to figure
09:51:20 23 out how to best get your case in shape to try it on the
09:51:24 24 schedule we come up with, and that's not probably going to be
09:51:29 25 the way you have historically and traditionally handled your

09:51:34 1 law practice. Without belaboring the point, we're in a new
09:51:38 2 world and it requires everybody to find new ways to get legal
09:51:42 3 matters resolved.

09:51:44 4 At least in my court, I can tell you everything
09:51:48 5 doesn't go back -- when we see the end of this, everything
09:51:52 6 doesn't go back to the way it was the day before we started
09:51:56 7 down this road and everything just picks up from there. I'm
09:52:03 8 carrying several cases forward because we also did not impanel
09:52:08 9 juries in April and May, but I'm not pushing my entire docket
09:52:13 10 forward in increments. Those cases that are ready to go to
09:52:18 11 trial are being held until I see when we're going to start
09:52:23 12 impaneling juries again, and I will work them in.

09:52:27 13 But if you were to go on the website and look at our
09:52:30 14 docket, everything else remains moving on the schedule it's on,
09:52:36 15 and I expect the lawyers to figure out how to comply with that
09:52:39 16 schedule. So bear that in mind, since most of you are
09:52:43 17 relatively new to my court.

09:52:45 18 So, with that having been said, I'll start with the
09:52:49 19 plaintiff. Mr. Klayman, any other questions, any other
09:52:53 20 comments, anything you wish to make the Court aware of?

09:52:57 21 MR. KLAYMAN: Thank you, Your Honor. In light of my
09:53:01 22 esteemed counsel's claim that David Jones doesn't belong in
09:53:05 23 this case and the delay that's occurred thus far in the case
09:53:10 24 through no fault of Your Honor, I'd like to be in discovery
09:53:13 25 right now with regard to deposing Mr. Jones.

09:53:15 1 THE COURT: Well, let me tell you: I'm not going to
09:53:18 2 take up any motions right now, Mr. Klayman. You all have to
09:53:21 3 sit down and agree on that discovery schedule, and I expect you
09:53:25 4 all to agree on times to take depositions. I'm not going to
09:53:32 5 take that up now. This is simply a status conference.

09:53:36 6 MR. KLAYMAN: I just wanted --

09:53:37 7 THE COURT: I know. But if you cannot agree on this,
09:53:39 8 I'm going to figure out on who I think is the problem in the
09:53:42 9 agreement, and I will proceed accordingly. And I want each of
09:53:47 10 you to know I can guess wrong. It's often the football player
09:53:52 11 who throws the second punch that gets caught, so it behooves
09:53:56 12 you to agree on all of these things.

09:53:59 13 Because there is a motion pending with regard to
09:54:02 14 Mr. David Jones, I just will say I urge you all to perhaps get
09:54:07 15 that discovery finished first, because you may or may not get
09:54:13 16 it before I deal with the motion to dismiss. Just because I
09:54:16 17 said it wasn't the first thing on my docket doesn't mean it's
09:54:19 18 the last thing on my docket. Things move on and off my docket
09:54:23 19 all the time, and I'm not going to tell you your motion to
09:54:26 20 dismiss is necessarily going to get put off for a long time.

09:54:30 21 But I don't want to hear about discovery right now.
09:54:32 22 I'm just interested in where we are. I expect you to get me a
09:54:36 23 scheduling order which will answer those discovery questions,
09:54:39 24 and then I expect you to cooperate with one another on an order
09:54:44 25 of when you're going to do discovery and who you're going to do

09:54:47 1 it of.

09:54:49 2 MR. KLAYMAN: Understood, Your Honor. Thank you.

09:54:59 3 THE COURT: All right. Mr. Wolman, Mr. Randazza,

09:54:59 4 Mr. Reeves, Mr. Wachen, Mr. Sapire, anything further from any

09:54:59 5 of the defendants?

09:55:03 6 MR. RANDAZZA: Your Honor, on behalf Mr. Jones,

09:55:06 7 InfoWars, and Mr. Shroyer, this is Marc Randazza.

09:55:08 8 No. We're clear and nothing to add.

09:55:11 9 THE COURT: All right. Well, thank you-all. I'm

09:55:13 10 glad you were available. Everybody have a good day, and I look

09:55:17 11 forward to working with you.

09:55:18 12 (End of transcript)

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UNITED STATES DISTRICT COURT

2 | WESTERN DISTRICT OF TEXAS)

3 I, Arlinda Rodriguez, Official Court Reporter, United
4 States District Court, Western District of Texas, do certify
5 that the foregoing is a correct transcript from the record of
6 proceedings in the above-entitled matter.

I certify that the transcript fees and format comply with those prescribed by the Court and Judicial Conference of the United States.

10 WITNESS MY OFFICIAL HAND this the 2nd day of June 2020.

11

12 /S/ Arlinda Rodriguez
13 Arlinda Rodriguez, Texas CSR 7753
14 Expiration Date: 10/31/2021
15 Official Court Reporter
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